

AMENDED IN SENATE JUNE 2, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2182

Introduced by Assembly Member Huffman
(Coauthors: Senators Liu and Pavley)

February 18, 2010

An act to amend Sections 5898.12, 5898.14, 5898.20, 5898.21, and 5898.22 of the Streets and Highways Code, relating to contractual assessments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2182, as amended, Huffman. Contractual assessments: *onsite sewer-lateral lines*, ~~and septic improvements~~.

Existing law authorizes a legislative body of a public agency, as defined, to determine that it would be convenient and advantageous to designate an area within which authorized officials and free and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property.

This bill would expand these provisions to include contractual assessments to finance onsite sewer *and septic* improvements, as defined. The bill would permit onsite sewer *and septic* improvements to be installed to convert residential, commercial, industrial, agricultural, or other real property from an onsite septic system to community sewer collection service and to modify or replace existing onsite sewer *and septic* improvements. *The bill would also permit these assessments to*

be used to replace or upgrade an existing septic system if specified requirements are met.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5898.12 of the Streets and Highways
2 Code is amended to read:

3 5898.12. (a) It is the intent of the Legislature that this chapter
4 should be used to finance public improvements to lots or parcels
5 that are developed and where the costs and time delays involved
6 in creating an assessment district pursuant to other provisions of
7 this division or any other law would be prohibitively large relative
8 to the cost of the public improvements to be financed.

9 (b) It is also the intent of the Legislature that this chapter should
10 be used to finance the installation of distributed generation
11 renewable energy sources or energy efficiency improvements that
12 are permanently fixed to residential, commercial, industrial,
13 agricultural, or other real property.

14 (c) It is also the intent of the Legislature to address chronic
15 water needs throughout California by permitting voluntary
16 individual efforts to improve water efficiency. The Legislature
17 further intends that this chapter should be used to finance the
18 installation of water efficiency improvements that are permanently
19 fixed to residential, commercial, industrial, agricultural, or other
20 real property, including, but not limited to, recycled water
21 connections, synthetic turf, cisterns for stormwater recovery, and
22 permeable pavement.

23 (d) It is also the intent of the Legislature to address water quality
24 needs throughout California by permitting voluntary individual
25 sewer *and septic* improvements that provide a public benefit. The
26 Legislature further intends that this chapter should be used to
27 finance the installation of onsite sewer *and septic* improvements
28 that are permanently fixed to residential, commercial, industrial,
29 agricultural, or other real property, for the installation of
30 improvements to, and replacements of, existing onsite sewer
31 facilities served by a community sewer system, *a septic system*,
32 and conversion of the property from a septic system to community
33 sewer collection and treatment service.

1 (e) It is also the intent of the Legislature that a public agency
2 in the process of establishing an assessment program, to the extent
3 feasible, use a good faith effort to provide advance notice of the
4 proposed program to water and electric service providers in the
5 relevant service area, as set forth in Section 5898.24, to allow the
6 most efficient coordination and collaboration between the public
7 agency and water and electric service providers.

8 (f) This chapter shall not be used to finance facilities for parcels
9 which are undergoing development.

10 (g) This chapter shall not be used to finance the purchase or
11 installation of appliances that are not permanently fixed to
12 residential, commercial, industrial, agricultural, or other real
13 property.

14 (h) Assessments may be levied pursuant to this chapter only
15 with the free and willing consent of the owner of each lot or parcel
16 on which an assessment is levied at the time the assessment is
17 levied.

18 SEC. 2. Section 5898.14 of the Streets and Highways Code is
19 amended to read:

20 5898.14. (a) The Legislature finds all of the following:

21 (1) Energy and water conservation efforts, including the
22 promotion of energy efficiency improvements to residential,
23 commercial, industrial, agricultural, or other real property, are
24 necessary to address the issue of global climate change. To improve
25 the quality of surface water and groundwater, necessary efforts
26 include the promotion of onsite water improvements that provide
27 a public benefit in water quality protection.

28 (2) The upfront cost of making residential, commercial,
29 industrial, agricultural, or other real property more energy and
30 water efficient, converting from an onsite septic system to sewer
31 collection service, *updating an existing septic system*, or making
32 needed improvements to, or replacements of, existing sewer
33 laterals, prevents many property owners from making those
34 improvements. To make those improvements more affordable and
35 to promote the installation of those improvements, it is necessary
36 to authorize an alternative procedure for authorizing assessments
37 to finance the cost of energy and water efficiency improvements
38 and onsite sewer *and septic* improvements.

39 (b) The Legislature declares that a public purpose will be served
40 by a voluntary contractual assessment program that provides the

1 legislative body of a public agency with the authority to finance
2 the installation of distributed generation renewable energy sources,
3 onsite sewer *and septic* improvements, and energy or water
4 efficiency improvements that are permanently fixed to residential,
5 commercial, industrial, agricultural, or other real property.

6 SEC. 3. Section 5898.20 of the Streets and Highways Code is
7 amended to read:

8 5898.20. (a) (1) The legislative body of a public agency may
9 determine that it would be convenient and advantageous to
10 designate an area within the public agency, that may encompass
11 the entire public agency or a lesser portion, within which authorized
12 public agency officials and property owners may enter into
13 voluntary contractual assessments for public improvements and
14 to make financing arrangements pursuant to this chapter.

15 (2) The legislative body of a public agency may also determine
16 that it would be convenient, advantageous, and in the public interest
17 to designate an area within the public agency, that may encompass
18 the entire public agency or a lesser portion, within which authorized
19 public agency officials and property owners may enter into
20 voluntary contractual assessments to finance the installation of
21 distributed generation renewable energy sources, onsite sewer *and*
22 *septic* improvements, or energy or water efficiency improvements
23 that are permanently fixed to real property pursuant to this chapter.

24 (b) The legislative body shall make these determinations by
25 adopting a resolution indicating its intention to do so. The
26 resolution of intention shall include a statement that the public
27 agency proposes to make voluntary contractual assessment
28 financing available to property owners, shall identify the kinds of
29 public works, distributed generation renewable energy sources,
30 onsite sewer *and septic* improvements, or energy or water
31 efficiency improvements that may be financed, shall describe the
32 boundaries of the area within which voluntary contractual
33 assessments may be entered into, and shall briefly describe the
34 proposed arrangements for financing the program, including a
35 brief description of criteria for determining the creditworthiness
36 of a property owner. The resolution of intention shall state that it
37 is in the public interest to finance the installation of distributed
38 generation renewable energy sources,, energy or water efficiency
39 improvements, or onsite sewer *and septic* improvements, or a
40 combination of those improvements, pursuant to paragraph (2) of

1 subdivision (a), if applicable. The resolution shall state that a public
2 hearing should be held at which interested persons may object to
3 or inquire about the proposed program or any of its particulars,
4 and shall state the time and place of the hearing. The resolution
5 shall direct an appropriate public agency official to prepare a report
6 pursuant to Section 5898.22 and to enter into consultations with
7 the county auditor's office or county controller's office in order
8 to reach agreement on what additional fees, if any, will be charged
9 to the city or county for incorporating the proposed voluntary
10 contractual assessments into the assessments of the general taxes
11 of the city or county on real property.

12 (c) As used in this chapter, each of the following terms shall
13 have the following meaning:

14 (1) "Efficiency improvements" means permanent improvements
15 fixed to residential, commercial, industrial, agricultural, or other
16 real property.

17 (2) "Legislative body" means the governing body of a public
18 agency.

19 (3) (A) For the purpose of financing the installation of water
20 efficiency improvements or onsite sewer *and septic* improvements,
21 "public agency" means a city, county, city and county, municipal
22 utility district, community services district, sanitary district,
23 sanitation district, or water district, as defined in Section 20200
24 of the Water Code. The definition of "city" in Section 5005 shall
25 not apply to this subparagraph.

26 (B) For the purpose of financing the installation of distributed
27 generation renewable energy sources or energy efficiency
28 improvements, "public agency" means a county, city, city and
29 county, or a municipal utility district, an irrigation district, or public
30 utility district that owns and operates an electric distribution
31 system. The definition of "city" in Section 5005 shall not apply to
32 this subparagraph.

33 (C) For the purpose of financing the public improvements,
34 "public agency" means a city as defined in Section 5005.

35 (4) (A) "Onsite sewer *and septic* improvements" means
36 permanent sewer *and septic* improvements fixed to real property
37 that convey sewage from the property's interior plumbing to the
38 point of discharge into the public agency's sewer facilities, and
39 may include, but is not limited to, pipes, pumps, other equipment,
40 sewer laterals, septic system abandonment, or one-time charges

1 for sewage treatment capacity associated with the improvements.
2 Onsite sewer *and septic* improvements may be installed for ~~either~~
3 ~~of~~ the following purposes:

4 ~~(A)~~

5 (i) To convert residential, commercial, industrial, agricultural,
6 or other real property from an onsite septic system to community
7 sewer collection service.

8 ~~(B)~~

9 (ii) To modify or replace existing onsite sewer improvements.

10 (B) “Onsite sewer and septic improvements” also means the
11 replacement of, or upgrade of, an existing septic system if the all
12 of the following requirements are met:

13 (i) The public agency determines that the building served by
14 the septic system is not within the range of service of an existing
15 or planned public sewer.

16 (ii) The replacement or upgrade of the existing septic system
17 satisfies all local requirements regarding pretreatment, effluent
18 meters or other devices to control solids releases, and emergency
19 capacity and malfunction alarming devices.

20 SEC. 4. Section 5898.21 of the Streets and Highways Code is
21 amended to read:

22 5898.21. Notwithstanding any other provision of this chapter,
23 upon the written consent of an authorized public agency official,
24 the proposed arrangements for financing the program pertaining
25 to the installation of distributed generation renewable energy
26 sources, onsite sewer *and septic* improvements, or energy or water
27 efficiency improvements that are permanently fixed to real property
28 may authorize the property owner to purchase directly the related
29 equipment and materials for the installation of distributed
30 generation renewable energy sources, onsite sewer *and septic*
31 improvements, or energy or water efficiency improvements and
32 to contract directly for the installation of distributed generation
33 renewable energy sources, onsite sewer *and septic* improvements,
34 or energy or water efficiency improvements that are permanently
35 fixed to the property owner’s residential, commercial, industrial,
36 agricultural, or other real property.

37 SEC. 5. Section 5898.22 of the Streets and Highways Code is
38 amended to read:

39 5898.22. The report shall contain all of the following:

1 (a) A map showing the boundaries of the territory within which
2 voluntary contractual assessments are proposed to be offered.

3 (b) A draft contract specifying the terms and conditions that
4 would be agreed to by a property owner within the voluntary
5 contractual assessment area and the public agency.

6 (c) A statement of public agency policies concerning voluntary
7 contractual assessments including all of the following:

8 (1) Identification of types of facilities, distributed generation
9 renewable energy sources, onsite sewer *and septic* improvements,
10 or energy or water efficiency improvements that may be financed
11 through the use of contractual assessments.

12 (2) Identification of a public agency official authorized to enter
13 into voluntary contractual assessments on behalf of the public
14 agency.

15 (3) A maximum aggregate dollar amount of voluntary
16 contractual assessments.

17 (4) A method for setting requests from property owners for
18 financing through voluntary contractual assessments in priority
19 order in the event that requests appear likely to exceed the
20 authorization amount.

21 (d) A plan for raising a capital amount required to pay for work
22 performed pursuant to voluntary contractual assessments. The plan
23 may include amounts to be advanced by the public agency through
24 funds available to it from any source. The plan may include the
25 sale of a bond or bonds or other financing relationship pursuant
26 to Section 5898.28. The plan shall include a statement of or method
27 for determining the interest rate and time period during which
28 contracting property owners would pay any assessment. The plan
29 shall provide for any reserve fund or funds. The plan shall provide
30 for the apportionment of all or any portion of the costs incidental
31 to financing, administration, and collection of the voluntary
32 contractual assessment program among the consenting property
33 owners and the public agency.

34 (e) A report on the results of the consultations with the county
35 auditor's office or county controller's office concerning the
36 additional fees, if any, that will be charged to the city or county
37 for incorporating the proposed voluntary contractual assessments

- 1 into the assessments of the general taxes of the city or county on
- 2 real property, and a plan for financing the payment of those fees.

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